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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,420	05/23/2001	Mark Landesmann	084561-0107	8465
22428	7590	11/16/2005	EXAMINER	
FOLEY AND LARDNER LLP			CHAMPAGNE, DONALD	
SUITE 500			ART UNIT	
3000 K STREET NW			PAPER NUMBER	
WASHINGTON, DC 20007			3622	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,420

Applicant(s)

LANDESMANN, MARK

Examiner

Donald L. Champagne

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-114 is/are pending in the application.
4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 10, 11, 13, 16, 18, 19, 34, 35, 56-65, 67, 68, 70, 73, 75, 76, 91, 92, 113 and 114 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

4

Continuation of Disposition of Claims: Claims withdrawn from consideration are 9,12,14,15,17,20-33,36-55,66,69,71,72,74,77-90 and 93-112.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of specie 1, claims 2-8, 10, 11, 13, 16, 18, 19, 34, 35, 56, 57, 59-65, 67, 68, 70, 73, 75, 76, 91, 92, 113 and 114, in the reply filed on 29 August 2005 is acknowledged. Claims 1 and 58 are generic.
2. Claims 9, 12, 14, 15, 17, 20-33, 36-55, 66, 69, 71, 72, 74, 77-90 and 93-112 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Warning

3. Applicant is advised that should claims 4 and 61 be found allowable, claim 6 and 63 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 16 and 73 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how "a reward" differs from any one of the benefits in the set. Para. [0234] of the published application (US 20020052752A1) implies that benefit and reward are synonyms, so much of each claim (everything after the first "set of benefits") does not appear to be meaningful.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-8, 10, 11, 13, 16, 18, 19, 34, 35, 56-65, 67, 68, 70, 73, 75, 76, 91, 92, 113 and 114 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (US 20040039639A1).
8. Walker et al. teaches (independent claims 1 and 58) a method and system for determining a serious intent to purchase a good or service, the method comprising the steps of: receiving a declaration of intent to purchase a good or service from a buyer entity and not receiving at substantially the same time a commitment to purchase that good or service from a specific selling entity, and receiving a penalty authorization (*a payment identifier, such as a credit card ... number*) to obtain something of value from the buyer entity to facilitate future payment of a penalty (para. [0010]; determining if a proof of purchase of said good or service has been received within a predetermined period of time (para. [0070-71]); if the proof of purchase has been received within the predetermined period of time, then updating a database so as to not apply a penalty ([0059] and [0072]), which reads on canceling the authorization.
9. Walker et al. also teaches claims 2, 3, 5, 59, 60 and 62 ([0010]), where *the potential buyer is offered a reward* reads on providing an offer to provide at least one benefit and the offer of a reward and the reward itself are benefits respectively provided prior to and after receiving the proof of purchase; claims 4, 6, 61 and 63 ([0046] and [0048]), where in Fig. 5 the *Item Description* reads on “a category” and the *Item Description Rating* is the basis of the benefit/reward correlation; claims 7 and 64 ([0070]); claims 8 and 65 ([0071]); claims 10 and 67 ([0011]); claims 11, 13, 68 and 70 (para. [0024] and [0067], where the institution maintaining the *financial account* reads on “the third party”); claims 16 and 73 ([0055]); claims 18 and 75 ([0053]); claims 19 and 76 ([0041], where *degree of certainty 243* reads on a set of levels of intent); claims 34 and 91 ([0071], where the credit card database is the “third party database”); claims 35 and 92 ([0071], [0037] and Fig. 3, where *Potential buyer database 230*, containing a credit card account number, reads on “a source database of

Art Unit: 3622

third party sources"); claims 56 and 113 ([0070]); and claims 57 and 114 ([0070], where the specification is to one unit).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.
11. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
13. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

12 November 2005